



Virginia  
Regulatory  
Town Hall

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## Exempt Action Final Regulation Agency Background Document

<b>Approving authority name</b>	Director, Department of Environmental Quality
<b>Primary action</b>	9VAC15-11
<b>Secondary action(s)</b>	9VAC15-10
<b>Regulation title</b>	Public Participation Guidelines
<b>Action title</b>	Public Participation Guidelines
<b>Date this document prepared</b>	October 19, 2008

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99)

### Summary

*Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.*

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the appointment of negotiated rulemaking panels and regulatory advisory panels, (ii) providing for the establishment and maintenance of notification lists of interested persons, (iii) providing for notification via electronic means or postal carrier, and (iv) specifying the information to be sent to persons on the notification lists.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

On September 29, 2008, the Director, Department of Environmental Quality, took final action to adopt a regulation entitled "Public Participation Guidelines" (9VAC15-11). The regulatory action is to be effective on January 1, 2009.

The regulation is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of §2.2-4006 A 4 a, of the Administrative Process Act because it is necessary to conform to Virginia statutory law.

In adopting this regulation, the director affirmed that he will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in §2.2-4006 B of the Administrative Process Act.

### Additional Information

*Please indicate that the text of the regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law.*

*If the exemption claimed falls under §2.2-4006 A 4 c of the APA please identify the federal law or regulations being relied upon for the final agency action.*

Section 2.2-4007.02 of the Administrative Process Act (Chapter 40 of Title 2.2 of the Code of Virginia) requires that any agency required to adopt regulations must adopt public participation guidelines. The Department of Environmental Quality is required to adopt a number of regulations; for example, §10.1-1186.3 of the Code requires that the department adopt regulations governing mediation and alternative dispute resolution. Another example is found in §62.1-195.1, which requires the department to adopt regulations regarding environmental impact assessments. Because the department is required by state law to adopt certain regulations, it is therefore also required to adopt public participation guidelines. A letter providing written assurance from the Office of the Attorney General that (i) the director has statutory authority to promulgate the final regulation and (ii) the regulation qualifies as an exemption under §2.2-4006 A 4 a of the Administrative Process Act is available upon request.

### Family Impact

*Assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

It is not anticipated that this regulation will have a direct impact on families.

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